

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1125 be amended to read as follows:

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 2 "SECTION 1. IC 6-1.1-1-11, AS AMENDED BY P.L.214-2005,
- 3 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JANUARY 1, 2009]: Sec. 11. (a) Subject to the limitation contained in
- 5 subsection (b), "personal property" means:
- 6 (1) nursery stock that has been severed from the ground;
- 7 (2) florists' stock of growing crops which are ready for sale as pot
- 8 plants on benches;
- 9 (3) billboards and other advertising devices which are located on
- 10 real property that is not owned by the owner of the devices;
- 11 ~~(4) motor vehicles; mobile houses; airplanes; boats not subject to~~
- 12 ~~the boat excise tax under IC 6-6-11; and trailers not subject to the~~
- 13 ~~trailer tax under IC 6-6-5;~~
- 14 ~~(5)~~ (4) foundations (other than foundations which support a
- 15 building or structure) on which machinery or equipment:
- 16 (A) held for sale in the ordinary course of a trade or
- 17 business;
- 18 (B) held, used, or consumed in connection with the
- 19 production of income; or
- 20 (C) held as an investment;
- 21 is installed; ~~and~~
- 22 ~~(6)~~ (5) all other tangible property (other than real property) which
- 23 is being:
- 24 (A) held for sale in the ordinary course of a trade or business;
- 25 (B) held, used, or consumed in connection with the production
- 26 of income; or
- 27 (C) held as an investment; **and**
- 28 **(6) mobile homes that do not qualify as real property and are**
- 29 **not described in subdivision (5).**
- 30 (b) Personal property does not include the following:
- 31 (1) Commercially planted and growing crops while ~~they are~~ in the

ground.

(2) Computer application software that is not held as inventory (as defined in IC 6-1.1-3-11).".

Page 2, delete lines 1 through 8.

Page 2, line 16, after "A" insert "**motorized**".

Page 2, line 16, after "A boat" insert "**or sailboat**".

Page 2, delete lines 29 through 37

Page 41, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 29. [EFFECTIVE JANUARY 1, 2009] **(a) The definitions in IC 6-1.1-1 and IC 6-6-5.1, as added by this act, apply throughout this SECTION. As used in this SECTION, "nonbusiness personal property" means personal property that is not:**

**(1) held for sale in the ordinary course of a trade or business;**

**(2) held, used, or consumed in connection with the production of income; or**

**(3) held as an investment.**

**(b) The purpose of the amendment of IC 6-1.1-1-11 and the addition of IC 6-6-5.1 by this act is to exempt nonbusiness personal property (other than mobile homes) from property taxation to the fullest extent allowed under Article 10, Section 1 of the Constitution of the State of Indiana. The general assembly finds that nonbusiness personal property consisting of:**

**(1) self-propelled vehicles that are not designed or regularly used for transporting property or persons on a public highway, such as invalid chairs, snowmobiles, yard and garden tractors, and all terrain vehicles;**

**(2) trailers not subject to an excise tax under IC 6-6-5, IC 6-6-5.1, as added by this act, or IC 6-6-5.5;**

**(3) human powered boats not subject to an excise tax under IC 6-6-11; or**

**(4) similar property;**

**is not the type of property that must be subject to an excise tax in order to be exempted from property taxation. However, if a property tax exemption granted by this act is determined to be invalid, all remaining exemptions granted by this act that are not determined to be invalid shall be treated as severable under IC 1-1-1-8.**

**(c) After February 28, 2009:**

**(1) nonbusiness personal property may not be assessed as personal property under IC 6-1.1 for property tax purposes;**

**(2) a lien for property taxes first due and payable after December 31, 2009, does not attach to nonbusiness personal property; and**

**(3) the department of local government finance, a county auditor, or an assessing official may not require an individual or entity to file a personal property tax return for nonbusiness personal property.**

1       (d) The department of local government finance may modify  
2 property tax levies and property tax rates of a taxing unit to  
3 eliminate the effects of the elimination of property taxation of  
4 nonbusiness personal property and the implementation of an excise  
5 tax on recreational vehicles and truck campers by this act,  
6 including an action to increase or impose a property tax:

7           (1) in the manner provided in IC 6-1.1-21.2 to replace revenue  
8 lost in an allocation area and needed to pay leases or debt  
9 service; or

10          (2) in a taxing unit to replace a reduction in distributions  
11 under IC 6-3.5-1.1, IC 6-3.5-6, or IC 6-3.5-7 that were pledged  
12 to pay leases or debt service.

13 Instead of imposing an additional property tax rate under this  
14 SECTION to replace revenue lost as the result of an exemption  
15 granted under this act, the department of local government finance  
16 may order that excise tax revenues received in a county under  
17 IC 6-6-5.1, as added by this act, be first applied to replace the lost  
18 revenues. The allocated excise tax revenues shall be deducted  
19 before making other distributions under IC 6-6-5.1, as added by  
20 this act. The department of local government finance may require  
21 a taxing unit or other affected party to petition the department of  
22 local government finance, under the terms, on the forms, and on  
23 the schedule determined by the department of local government  
24 finance, as a precondition to modifying a tax levy or tax rate or  
25 allocating excise tax revenues under this SECTION.

26       (e) County auditors and assessing officials shall provide the  
27 bureau of motor vehicles and the department of state revenue with  
28 the information from personal property tax returns and related  
29 records needed by the bureau of motor vehicles and the  
30 department of state revenue to implement IC 6-6-5.1, as added by  
31 this act, in 2009 on the schedule, in the manner and in the form  
32 required by the department of local government finance.

33       (f) Notwithstanding this act, the definition of personal property  
34 in IC 6-1.1-1-11, as effective before January 1, 2009, applies for

1 **purposes of applying IC 6-1.1-23-2 and other provisions related to**  
2 **the collection of delinquent property taxes for levies that became**  
3 **a lien on property before January 1, 2009.".**

4 Renumber all SECTIONS consecutively.

(Reference is to EHB 1125 as reprinted February 22, 2008.)

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Senator KENLEY